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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

In Re. No. C 09-5051 SI (pr)  
MARTIN KILLINGSWORTH,  
Plaintiff.

**ORDER OF DISMISSAL**

This action was opened when the court received from Martin Killingsworth a letter to Judge Henderson complaining about bunk bed configurations at his prison. The clerk opened a case file for the action and sent out one notice that the action was deficient due to the failure to file a complaint or petition and another notice that the action was deficient due to the failure to pay the filing fee or file an in forma pauperis application. Killingsworth was advised that failure to file a pleading and failure to pay the fee or file the pauper application materials within thirty days would result in dismissal of the action. Killingsworth then sent a letter in which he explained that he had sent the letter for informational use only and not as an official complaint. In essence, he wanted to complain but not to file a complaint. In light of Killingsworth's explanation that the letter he sent to Judge Henderson was not intended to commence a new action, this action is DISMISSED because it was opened in error. No fee is due. If Killingsworth wants to bring something to Judge Henderson's attention in a pending case, he needs to put the case number for that case on any document he submits.

IT IS SO ORDERED.

Dated: November 19, 2009

  
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SUSAN ILLSTON  
United States District Judge